

### **REMARKS/ARGUMENTS**

This Amendment responds to the issues raised in the Office Action of March 16, 2010, a Final Rejection and accompanies a Request for Continued Examination.

Reconsideration of this application is requested. Claims 1-5, 7, 9 and 12-28 are pending in the application. Of these claims 16-24 have been withdrawn from consideration as directed to non-elected subject matter for the reasons explained in item 1 of the Official Action. This response will focus on the elected claims.

The claims have been amended in order to more particularly point out and distinctly claim that which applicants regard as their invention. One of the objects of the present invention is to provide a packaging material that may be printed, as noted on page 1, first full paragraph, page 2, line 4, the first full paragraph on page 19 and as quantified in the gradation printability test in item 4 on page 28 of the specification. *See* also the results in Table 3 for Examples 1-4 according to the present invention and the comparative and reference examples. The quality of printability is well documented throughout the disclosure of this application and thus the amendments made to the above claims are not only based on adequate disclosure but also further characterize the nature of the product of the present invention and serve to separate and distinguish this product from prior-disclosed procedures and products.

The Official Action rejects all of the examined claims as being unpatentable over the combination of Matsuda et al and Kajimaru et al. Applicants dispute the examiner's reasons underlying the alleged combination of the two references and attempts to defend such a combination. In particular, applicants focus upon the examiner's comments in item 7, page 3 "it would have been obvious to one of ordinary skill in the art to use Kajimaru's polyester resin with the gas-barrier taught by Matsuda to improve the waterproof qualities of the barrier".

A closer look at the Kajimaru et al reference will reveal that it is concerned with waterproofness, however the waterproof property or ability is completely different from water vapor permeability. As an illustration, the material "GORE-TEX®" is a fabric that is both waterproof and breathable, that is it is waterproof but water vapor permeable. In Matsuda there is no mention of waterproof.

This is in complete contrast with the Kajimaru et al reference which actively features the object of providing waterproofness. Instances of this occur in paragraphs [0002], [0006], [0007]

and [0013]. With waterproofness as being an objective of Kajimaru, counsel points out that applicants' claims are directed to a gas-barrier laminate that has the requisite oxygen permeability and water vapor permeability. Kajimaru discusses only waterproofness and one having ordinary skill in the art would not confuse waterproofness with oxygen permeability or water vapor permeability. Indeed, there is no kind of permeability mentioned in this document.

The attempt to equate water vapor permeability with waterproofness is in fact an inaccurate way to compare these products. From the above it will be apparent that the only motivation to combine these products appears on the pages of the Official Action and not in the content of the two documents under consideration when fairly reviewed and assessed.

Reconsideration and favorable action are solicited. Should the examiner require further information, please contact the undersigned.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 14-1140.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: /Arthur R. Crawford/  
Arthur R. Crawford  
Reg. No. 25,327

ARC:caw  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100